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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,006	10/10/2001	David P. Aschenbeck	25019A	8542

22889 7590 06/24/2005

OWENS CORNING  
2790 COLUMBUS ROAD  
GRANVILLE, OH 43023

EXAMINER

WATKINS III, WILLIAM P

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/975,006

Applicant(s)

ASCHENBECK ET AL.

Examiner

William P. Watkins III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2005 and 16 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-54 and 56-59 is/are pending in the application.
- 4a) Of the above claim(s) 1-7, 11-52, 54, 56 and 57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8, 9, 53, 58 and 59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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**DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 16 March 2005 has been entered.

2. The amendments filed 03 February 2005 and 16 March 2005 have been entered. The new matter objection and the rejection using Miller et al in view of Vermilion in the final office action mailed 16 November 2004 are withdrawn for the reasons noted in the advisory action mailed 14 February 2005.

3. Claims 8-9 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schult (U.S. 4,911,975) in view of Yap et al. (U.S. 6,037,398) and Wilkes (U.S. 4,609,696).

Schult teaches a top coating on a roofing product that gives enhanced weather ability and that is highly reflective of light (col. 2, lines 10-15). The coating may be polyolefin with

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bitumen and with a level of fillers in the 50% weight range (col. 4, lines 55-60). The top layer may have a thickness of .2 to .25 centimeters (col. 4, line 34). The center portion may be a glass mat and be penetrated by the coating layers (col. 4, lines 40-42, col. 3, lines 45-50). The bottom coating layer may have a filler loading of 10% to 20% by weight (col. 2, line 27). Yap et al. teach the use of an asphalt with solvent modified with polymer, aluminum flakes and other inert fillers at up to 50% by weight to form a highly reflective asphalt based coating that has good weather ability (col. 1, lines 25-35, col. 2, lines 5-20). Wilkes as prior art teaches the use of asphalt coatings applied either as hot coatings without solvent or as solvent coatings that are applied cold and then hardened by solvent evaporation (col. 1, lines 10-35). The instant invention claims a top coating layer with an increased weather ability and a central glass fabric layer and a bottom coating of different weather ability with the filler loading of the asphalt based coating being in the 30% to 75% weight range. It would have been obvious to one of ordinary skill in the art to select the option of equally thick top and bottom layers with polyolefin/bitumen and asphalt based materials on a glass fiber center mat from the various combinations of options taught by Schult in order to practice the invention of Schult. The

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average of filler at 50% by weight in the top coating with filler at 20% weight in the bottom coating for layers being of equal thickness would give an average of over 30% weight filler in the total asphalt based coating of the central web, which meets the instant claim language. It further would have been obvious to have substituted the reflective asphalt of Yap et al. for the polyethylene/bitumen layer of Schult in order to have similar reflectivity and increased weather ability with a lower cost asphalt based material. It also further would have been obvious to substitute a hot melt form of the coating of Schult in view of Yap et al. for the solvent coating of Schult in view of Yap et al. in order to avoid handling solvent in the process of Schult in view of Yap et al. because of the teachings of Wilkes that either solvent based or holt melt based forms of asphalt may be applied depending on process application location and conditions. The increased weather ability of both the upper layer of both Schult and Yap et al. are taken as meeting the instant claim limitation regarding the 60 day test as both references teach increased weather ability over standard roof outer layers and the PTO does not have experimental facilities to determine the actual weather ability of the references. The burden of proof is therefore shifted to applicant (MPEP 2112 and 2113).

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4. Claims 8-9, 53, 58-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen (U.S. 4,405,680) in view of Nelson (U.S. 2,085,992).

Hansen teaches a glass fiber mat, which is saturated with an unblown asphalt composition that may have 0 to 80% fillers (col. 3, lines 10-15, col. 1, lines 60-69). The saturated mat is coated on the top and bottom layers with a blown asphalt with may have 1 to 80% filler (col. 4, lines 1-5, col. 3, lines 45-55). Top layer granules, as known in the shingle art, may be used (col. 4, lines 5-10, abstract). The total layers of Hansen may be at least 1/8 inch in thickness (col. 4, line 50). Nelson teaches the use of antioxidants in asphalt layers that are exposed to both light and air in shingle applications to increase the resistance of the shingles to weathering (col. 1, lines 30-50, col. 4, lines 15-25). The instant invention claims an asphalt layer on top of a saturated glass fiber layer whose under side is coated with an asphalt layer, the top layer has increased weathering ability compared to the bottom layer. It would have been obvious to one of ordinary skill in the art to have used an antioxidant in the top asphalt layer of Hansen, that is exposed to both light and air on a roof, in order to increase the ability of the shingle of Hansen to withstand weathering because of the teachings of Nelson. As the PTO does

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not have experimental facilities, the examiner assumes that the increased weather resistance of the top layer of Hansen in view of Nelson meets the instant test range of the instant claims, absent evidence to the contrary.

5. Applicant's arguments filed 16 March 2005 have been fully considered but they are not persuasive.

The arguments regarding Schult as modified in the rejection above are answered in the advisory action mailed 05 April 2005. The new grounds of rejection above address applicant's arguments regarding claims 58-59.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system,

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see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "William P. Watkins III". The signature is fluid and cursive, with a prominent "W" and "I" at the end.

WW/ww

June 22, 2005

**WILLIAM P. WATKINS III**  
**PRIMARY EXAMINER**